Court No.2

Writ Petition No. 635(M/B) of 2003

Kunwar M.A.Khan ..... Petitioner

Versus

State of Uttaranchal and others ..... Respondents

Hon. P.C. Verma, A.C.J.
Hon. Irshad Hussain, J.

Heard Sri Sharad Sharma, learned counsel for the petitioner and learned Standing Counsel.

Undisputedly, the petitioner is the owner of the land in dispute. The grievance raised in the writ petition is that the district administration is encroaching upon the land of the petitioner, of which petitioner is the owner. According to the petitioner, he is the owner of the 4 acres of land known as 'Queries' in Sukhatal. The sale deed has been filed, which is on record. Regarding demarcation, objection has been raised by the learned C.S.C. that the land held by the petitioner has already been acquired for the construction of multi-storied parking space.

According to the learned counsel for the petitioner, after acquisition, part of the land is left which still belongs to the petitioner. The question relating to highly disputed facts can not be considered in the petition under Article 226 of the Constitution. The District Magistrate is directed to get the demarcation of the property done. If some property is found to be that of the petitioner, the District Magistrate may take step to acquire the same within one month. The District Magistrate, however, shall not encroach upon the said land without acquiring the land of the petitioner, so identified after demarcation.

The petition is disposed of accordingly.

(P.C. Verma, A.C.J.) **(Irshad Hussain, J.)**

Dt. 16.07.2003
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